

Amend Revenue and Taxation Code Section 68 to allow displaced persons to prospectively receive an eminent domain base year value transfer on late-filed claims. (Housekeeping)

Source: Property and Special Taxes Department

Existing Law. For property tax purposes, real property is reassessed from its Proposition 13 protected value (called a “base year value”) to its current market value whenever a change in ownership occurs.¹ The law allows owners of certain property taken by the government to acquire a replacement property without increased property tax liability through a “base year value transfer.” Specifically, the law does not define “change in ownership” to include the acquisition of real property as a replacement for comparable property² if the person acquiring the real property has been displaced by eminent domain proceedings, acquisition by a public entity, or governmental action resulting in a judgment of inverse condemnation. Instead of reassessing a newly acquired replacement property to its current value, the assessor “transfers” the base year value from the taken property to the replacement property, as specified.

To receive this constitutionally³ provided property tax savings, the implementing statute⁴ requires a person acquiring replacement property to request the base year value transfer within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final. A property tax rule⁵ requires the taxpayer to acquire the replacement property before making the request and requires that the request be timely.⁶ To be timely, the taxpayer must file with the assessor a base year value transfer request within four years of the following dates, whichever is applicable:

- For property acquired by eminent domain—the date the final order of condemnation is recorded or the date the taxpayer vacates the property taken, whichever is later.
- For property acquired by a public entity by purchase or exchange—the date of conveyance or the date the taxpayer vacates the property taken, whichever is later.
- For property taken by inverse condemnation—the date the judgment of inverse condemnation becomes final or the date the taxpayer vacates the property taken, whichever is later.

In 2014, a court ruled that a property owner should not be permanently barred from a base year value transfer because he or she makes a claim after the filing deadline. The Fourth District Court of Appeal, in [Olive Lane Industrial Park, LLC v. County of San Diego](#) (2014, D063337), held that RTC Section 68 does not expressly preclude

¹ Cal. Const. Art. XIII A, [Sec. 2](#)

² Replacement real property is deemed comparable to the property taken if it is similar in size, utility, and function.

³ Cal. Const. Art. XIII A, [Sec. 2](#)(d). Added by Proposition 3, June 1982.

⁴ Revenue and Taxation Code (RTC) [Section 68](#)

⁵ [Property Tax Rule 462.500](#).

⁶ It has long been the BOE's opinion that if a timely request is not made, the exclusion does not apply ([Annotation 200.0315](#), C 12/22/1988).

prospective relief in the event a claim is filed after the four-year timeline, and Section 68 could be interpreted to permit prospective relief when a taxpayer acquires replacement property within the four-year period but misses the four-year filing deadline. The court held that “[t]his interpretation, which maintains the four-year deadline with respect to *acquisition* of the property but provides prospective relief for claims *filed* after the four-year period, accommodates the public policy interest in placing reasonable time limits on the exercise of constitutional rights, while also effectuating the plain language of Article XIII A that a change in ownership does not occur when property is acquired to replace condemned property.”

Both the parent-child change in ownership exclusion⁷ and the base year value transfer provisions for persons over the age of 55 and the disabled⁸ allow prospective relief for late-filed claims. The Legislature subsequently amended these laws so that taxpayers would not be permanently barred from these constitutionally authorized provisions.⁹

This Proposal. This proposal permits prospective relief for base year value transfer claims filed after the four-year timeline consistent with the court’s decision. This amendment ensures that affected property owners will receive their constitutionally authorized right to property tax protection when their property is taken. Providing prospective relief is consistent with relief provided for other late-filed claims related to the parent-child change in ownership exclusion and base year value transfers for the elderly and disabled. This proposal also deletes obsolete date references and adds subdivision lettering for clarity.

Section 68 of the Revenue and Taxation Code is amended to read:

68. (a) For purposes of Section 2 of Article XIII A of the Constitution, the term "change in ownership" shall not include the acquisition of real property as a replacement for comparable property if the person acquiring the real property has been displaced from property in this state by eminent domain proceedings, by acquisition by a public entity, or by governmental action which has resulted in a judgment of inverse condemnation. The adjusted base year value of the property acquired shall be the lower of the fair market value of the property acquired or the value which is the sum of the following:

(a) (1) The adjusted base year value of the property from which the person was displaced.

(b) (2) The amount, if any, by which the full cash value of the property acquired exceeds 120 percent of the amount received by the person for the property from which the person was displaced.

The provisions of this section shall apply to eminent domain proceedings, acquisitions, or judgments of inverse condemnation after March 1, 1975, and shall affect only those assessments of that property which occur after June 8, 1982.

⁷ RTC [Section 63.1](#)(e)(2).

⁸ RTC [Section 69.5](#)(f).

⁹ [Senate Bill 542](#) (Stats. 1997, Ch. 941) for RTC Section 63.1 and [Assembly Bill 3076](#) (Stats. 2006, Ch. 364) for RTC Section 69.5.

~~(b) (1) Persons acquiring replacement property between March 1, 1975, and January 1, 1983, shall request assessment under this section with the assessor on or before January 1, 1987. Persons acquiring replacement property on and after January 1, 1983, shall request assessment~~ under this section with the assessor within four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final.

(2) For purposes of this subdivision, any ~~Any~~ change in the adjusted base year value of the replacement property acquired, resulting from the application of the provisions of this section, shall be deemed to be effective on the first day of the month following the month in which the property is acquired. The change in value shall be treated as a change in ownership for the purpose of placing supplemental assessments on the supplemental roll pursuant to Chapter 3.5 (commencing with Section 75). The assessor shall, however, appraise the replacement property acquired in accordance with the provisions of this section rather than the provisions of Section 75.10. The provisions of Chapter 3.5 shall be liberally construed in order to provide the benefits of this section and Section 2 of Article XIII A of the California Constitution to affected property owners at the earliest possible date.

(c) A request for assessment under this section that is made after four years of the date the property was acquired by eminent domain or purchase or the date the judgment of inverse condemnation becomes final shall apply commencing with the lien date of the assessment year in which the request is made. There shall be no refund or cancellation of taxes prior to the date that the request is made. Under any reassessment granted pursuant to that request, the assessor shall adjust the base year value of the replacement property acquired in accordance with the provisions of this section and make adjustments for both of the following:

(1) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(2) Any subsequent new construction occurring with respect to the subject real property.